

# **Annual Report, 1976 Division of Insurance**

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Michael S. Dukakis  
Governor of Massachusetts

James M. Stone  
Commissioner of Insurance

# **Massachusetts Division of Insurance**

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# Progress Report

This report summarizes the principal efforts of the Division of Insurance during 1976.

## I. Changes in the Operation of the Department

This year brought nearly to completion the major reorganizational effort begun in 1975. The character of the Department has now been sharply altered. Among the changes are the following:

A. Reporting Structure. Last year's emphasis was on making better use of our Deputy Commissioner positions. Four senior Deputies now report to the Commissioner where, in the past, there were at least a dozen individuals reporting directly. This year's work focused on the next level of management, the Section Supervisors.

Under First Deputy Commissioner Giffin are the Hearings Section, the Administrative Section and the Research and Education Section. Under Deputy Commissioner Rodney are the Field Audit Section, the Retirement System Examination Section, the Financial Surveillance Section, the Agents and Brokers Section, and the Special Investigation Section. Under Deputy Commissioner Hillman are the Legal Section, the Consumer Services

(Complaints) Section and the Board of Appeals. Each Supervisor now has primary operational, promotional and disciplinary responsibilities for the employees in the section. Only the new State Rating Bureau under Director James Hunt has not yet been organized by section. The State Rating Bureau is responsible for rate regulation and policy forms approval.

B. Staffing Changes. The number of employees holding professional designations as attorneys, C.P.A.'s, actuaries, Ph.D's or MBA's has risen from less than half a dozen in 1975 to approximately 30. The total staff complement has been held, however, at 244 as compared with 304 in January of 1975.

## II. Auto Insurance Law Reforms

Many changes in automobile insurance laws were brought about during the 1976 legislative session. Among the most visible were:

### A. Merit Rating

Insurance rates in Massachusetts have, for many years now, taken no account at all of the insured's driving record. With cancellation on the basis of record also forbidden, Massachusetts was the only one of the fifty states to provide no financial incentive for good driving and responsible claims behavior. Under the new law, at-fault accidents and moving violation convictions will result in surcharges against drivers' premiums. The table of surcharges specifies twelve different possible surcharge amounts depending on the type of incident and the driver's prior surcharge record. The lowest surcharge, applying for example to a first offense speeding conviction, is \$25. The highest surcharge, for a third drunken driving conviction, is \$675. Accident surcharges range from \$50 to \$300. All of the surcharge money collected is returned to drivers with clean records as credits on their insurance bills.

### B. Competitive Rates

Until this year, all automobile insurers in Massachusetts used the same schedule of rates. That schedule was determined by the Commissioner of Insurance. The legislature has now enacted a competitive rating law, although it rejected our proposal to phase in the new system slowly over several years. Each company will file for any change in rates it wishes to implement, and the Commissioner retains four types of stand-by authority to prevent abuses. The Commissioner can disallow any rate before it goes into effect; he can retroactively roll back any current rate found to be excessive; he can order a return to the old fixed rate system if competition is shown not to be functioning; or he can initiate criminal and civil court action if he finds violations of strict, anti-trust laws.

### C. Changes in Claims Procedures

The existing statutes permitted many claimants to collect both theft and collision payments far in excess of the true worth of their vehicles. The statute did not permit claims or lawsuits for damages not covered by insurance. The new law limits claims for partial losses to the actual cost of repair and limits claims for total losses to the actual cash value of the vehicle. At the same time, it reintroduces the right to collect for uninsured property damage. The bodily injury no-fault system, which reduced bodily injury tort claims by over 70% since 1971, was not altered by the new law.

### III. Rate Decisions and Regulations

Numerous administrative decisions were issued or confirmed in 1976. Among them were:

#### A. Consideration of Investment Income in Rate Regulation

Last year's automobile rate decision introduced a new approach to considering investment income in the determination of reasonable underwriting profit margins. Insurance companies protested the new method and its resulting reduction in allowable margins by appealing the rate decision to the Supreme Judicial Court. In August, the Court unanimously upheld the decision. The use of an investment income analysis will now be required in other regulated rate filings made to the Department.

#### B. Requirement of Audits by CPA Firms

Early this year, the Department issued a regulation requiring each insurance company doing business in Massachusetts to submit to an annual audit by an independent firm of certified public accountants. Although this was the first regulation in the country to apply such a requirement to foreign and domestic insurers, no company has refused to comply with the regulation. No court action challenging the regulation has been brought and none is presently anticipated. As a result of the new rules, the Department will increasingly shift the bulk of its examination resources to situations where potential problems are indicated and will deemphasize routine verification audits.

#### C. Pension Fund Investment Policy

In January, the Department issued a letter of opinion to all Contributory Retirement Systems for Public Employees. The opinion limited permissible investments of public retirement trust funds in employer unit securities. State, county and municipal retirement funds were forbidden to invest more than 10% of their assets in securities issued by the employer unit for which the fund was constituted. It was further ordered that the price to be paid for any employer unit security must be no less favorable than that paid by an independent party for a substantial portion of the same issue.



#### D. Automobile Rate Filing Forms

Under the new competitive rating law, the Department may be called on to review dozens of separate automobile rate filings in a single year. This could not be done with any reasonable degree of consistency if companies presented different types of justifications with widely differing formats. The problem has been so serious in other jurisdictions that stand-by powers to guard against competitive failures have often existed in name only. In October, Massachusetts became the first state to specify by regulation a standard form for all automobile rate filings.

#### E. Procedures for the Conduct of Public Hearings

A long-standing history of procedural informality at insurance rate hearings had rendered extremely difficult any consumer intervention in the rate regulation process. Because complex actuarial assertions require time to digest and substantial preparation to refute, the participation rights of the Consumers' Council, the Consumer Protection Section of the Attorney General's Office and other consumer organizations had seldom been effectively exercised. This year the Department, in consultation with the various participants, promulgated formal regulations for the conduct of public hearings. The regulations require written advisory filings by all parties in time for meaningful pre-hearing discovery, and they codify the rights of due process throughout the hearing procedure.

### IV. Consumer Information Services

One of the greatest public demands upon an insurance regulator is the demand for help in understanding the insurance product. Consumers seldom feel that they know exactly what protections they are buying or how to evaluate the fairness of the price. Two major steps were taken by the Department in 1976 to aid consumers of automobile insurance. Similar approaches will be tried in other insurance lines next year:

#### A. Easy-to-Read Policies

The standard Massachusetts automobile policy form, which had evolved over fifty years of patchwork, was a classic in obscure jargon. The first sentence was 162 words long. Consumers, agents and company people found much of the verbiage convoluted and confusing. In May, the Department ordered that a new readable form be developed for use in 1977. By November, an Easy-to-Read form was agreed upon by all parties. The new form has 40% fewer words than the old policy; the type size and margins are sharply increased; and virtually all of the arcane words and phrases have been removed. A few companies in a few states had already introduced policies clearer than the traditional forms. Massachusetts is now the first state to provide a readable form for every auto policyholder.



## B. Buyers' Guides

The automobile insurance reform law of 1976 contained a provision requiring all companies writing auto policies to distribute to all policyholders copies of a Buyers' Guide prepared by the Commissioner. The Guide plainly explains the new laws, evaluates choices of coverage and deductibles, and recommends ways to shop for the best carrier under the new competitive rating law. The Guide is presently in the process of distribution to over two million policyholders.

# Laws, Regulations & Decisions

## LAWS

In 1976 the General Court passed, and the Governor approved, the following acts of legislation, which have a direct effect on the insurance business in Massachusetts. The number identifying each act is the chapter number assigned to it during the 1976 session of the General Court.

Chap. 1, further regulating the law relating to compulsory property protection insurance for all registered motor vehicles.

Chap. 141, relative to the licensing of insurance agents or brokers.

Chap. 176, providing for payments into the general insurance Guaranty Fund for claims relating to unification of mortality.

Chap. 203, making certain corrective changes in the laws relating to non-profit hospital service corporations and medical service corporations.

Chap. 226, relative to motor vehicle insurance.

Chap. 307, authorizing non-profit hospital service corporations to furnish services relating to the providing of hospital or other health services and to make loans and other agreements in connection with

developing health maintenance organizations, medical foundations and other alternative means and organizations for the delivery of health care. SEE ALSO Chap. 308 of the same title.

Chap. 355, relative to the real property investments of domestic life insurance companies.

Chap. 391, increasing the amount for which policies and annuities may be written by savings and insurance banks.

Chap. 401, authorizing corporations to be insurance advisers.

Chap. 454, further regulating the organization and operation of health maintenance organizations.

Chap. 471, requiring companies providing health and accident insurance cancellable at age sixty-five to issue certain notices.

Chap. 474, increasing the amount of compensation for incapacity under the law regulating workmen's compensation.

Chap. 524, increasing the ceiling for the voluntary purchase of optional group life and group accidental death and dismemberment insurance by state employees with no premium contribution by the Commonwealth.

Chap. 525, further regulating the application of surcharges in merit rating plans for motor vehicle insurance.

## REGULATIONS

To complement the laws governing insurance, the Massachusetts Division of Insurance used its statutory authority to issue rules and regulations. The rules and regulations adopted in 1976 are shown below, in their order of adoption.

Regulation 1-76, regarding audits of insurers by independent Certified Public Accountants.

Regulation 4-76, regarding procedures for the conduct of hearings of motor vehicle insurance rates.

Regulation 2-76, regarding procedures for the adoption of regulation.

Regulation 3-76, regarding procedures for requests of advisory opinions.

Emergency Regulation 5-76, regarding procedures concerning rate filings and the conduct of hearings for motor vehicle insurance pursuant to Section 7 of Chapter 175E of the Massachusetts General Laws.

Regulation 6-76, regarding prescription of forms for rate filings pursuant to Section 7 of Chapter 175E of the Massachusetts General Laws.

Emergency Regulation 7-76, regarding Massachusetts automobile insurance table of short rate values.

Emergency Regulation 8-76, regarding procedures for the conduct of hearings for medical malpractice insurance rates pursuant to Section 5A of Chapter 175A of the Massachusetts General Laws.

Emergency Regulation 9-76, regarding the Standard Merit Rating Plan.

Regulation 5-76, regarding procedures concerning rate filings and the conduct of hearings for motor vehicle insurance pursuant to Section 7 of Chapter 175E of the Massachusetts General Laws.

Regulation 7-76, regarding Massachusetts automobile insurance table of short rate values.

#### DECISIONS

Statutes also give the insurance commissioner the power to hold hearings to determine the condition of the insurance marketplace, and, in some instances, to set rates. These findings were issued after due notice and hearing:

Correction Notice of the Opinions, Findings and Decision of 1976 automobile property damage coverage rates rendered December, 1975.

Opinion, Finding and Decision on a filing by Blue Cross of Mass., Inc. for an increase in rates for non-group subscribers who elect to be insured under the Harvard Community Health Plan.

Opinion of the Commissioner of Insurance concerning purchases by retirement systems of employer unit securities.

Opinion, Finding and Decision on a filing by Blue Cross of Mass., Inc. and Blue Shield of Mass., Inc. for increases in rates for Medicare Extension contracts (Medex).

Opinions, Findings and Decision on proposed territories for 1977.

The Division also issued decisions or agreed to consent orders in the following cases of alleged misconduct by agents, brokers, companies and other miscellaneous writers.

Re: Nathan S. Michael (Villa Insurance Agency).

Re: Richard W. Alix.

Re: Charles E. Farrington (Oakwood Insurance Agency).

Re: Reginald Robert Johnson.

Re: David R. Hughes and Inman Square Insurance Agency, Inc.

Re: Gerald W. Savoie and All Type Insurance Agency, Inc.

Re: Ronald A. Sprague.

Re: Ronald M. Freeman and Alan S. Freeman.

Re: Francis P. Donahue.

# Companies

## FINANCIAL EXAMINATIONS

Each year, as required by law, the Division of Insurance routinely examines approximately one third of all Massachusetts-based insurance companies, as well as one third of all retirement systems for Massachusetts public employees.

### Companies:

A M Life Ins. Co.  
American Mutual Ins. Co. of Boston  
American Mutual Liability Ins. Co.  
American Policyholders Ins. Co.  
Arkwright-Boston Manufacturers Mutual Ins.  
Arkwright-Boston Ins. Co.  
Middlesex Ins. Co.  
New England Title Ins. Co.  
Newburyport Mutual Fire Ins. Co.  
Norfolk and Dedham Mutual Fire Ins. Co.  
Patriot General Ins. Co.  
Patriot General Life Ins. Co.

Paul Revere Life Ins. Co.  
 Paul Revere Variable Annuity Ins. Co.  
 State Mutual Life Assurance Co.  
 United States Mutual Liability Ins. Co.  
 West Newbury Mutual Fire Ins. Co.

Retirement systems:

Adams	Holyoke
Andover	Lexington
Athol	Lynn
Attleboro	Medford
Belmont	North Attleborough
Beverly	Peabody
Braintree	Quincy
Brockton	Reading
Cambridge	Swampscott
Chicopee	Taunton
Clinton	Waltham
Dedham	Watertown
Easthampton	Winchester
Fall River	Winthrop
Fitchburg	Woburn
Franklin	Mass Turnpike Authority
Gardner	MHF Agency
Gloucester	Middlesex County
	Wakefield

CHANGES

These companies were admitted in 1976 to do business in Massachusetts; their state of incorporation is shown in parentheses after the company name:

Aetna Variable Annuity Life Ins. Co. (Connecticut)  
 Cologne Life Reinsurance Co. (Connecticut)  
 Durham Life Ins. Co. (North Carolina)  
 Great American Ins. Co. (Ohio)  
 Kentucky Central Life Ins. Co. (Kentucky)  
 Leatherby Ins. Co. (California)  
 PMI Mortgage Ins. Co. (Arizona)  
 Prudential Property and Casualty Ins. Co. (New Jersey)  
 Universal Underwriters Life Ins. Co. (Missouri)

These companies withdrew from writing insurance in Massachusetts; their state of incorporation is shown in parentheses after the company name:

American Liberty Ins. Co. (Alabama)  
 Cosmopolitan Mutual Ins. Co. (New York)  
 General United Life Ins. Co. (Iowa)



Interboro Mutual Indemnity Ins. Co. (New York)  
 Wolverine Ins. Co. (Michigan)

These companies were renamed; the state of incorporation is shown in parentheses for both the old and the new names:

American International Ins. Co. (New York) is now A.I.U. Ins. Co. (New York).  
 General Fire and Casualty Co. (New York) is now Allianz Ins. Co. (New York).  
 The Manhattan Fire and Marine Ins. Co. (New York) is now Puritan Ins. Co. (New York).  
 Mowhawk Ins. Co. (New York) is now National American Ins. Co. of New York (New York).  
 Motor Club Fire and Casualty Co. (New Jersey) is now Garden State Fire and Casualty Co. (New Jersey).

#### CEASE AND DESIST ORDER

The Massachusetts Division of Insurance ordered United Founders Life Ins. Co., incorporated in Oklahoma, to cease and desist writing new business, effective May 3, 1976.

For more extensive data on any insurance company that operates in Massachusetts, the reader should consult the proper volume of Best's Insurance Reports, or examine the company's financial statement on file with the Massachusetts Division of Insurance.

#### RECEIVERSHIPS

Associated Merchants Mutual Insurance Company--Joseph F. Ciccio, as receiver for the insurance company, continued to retain in his possession the assets of the insurance company. During this time, the Massachusetts Insurer's Insolvency Fund, pursuant to Chapter 175D, continued with the adjustment and disposition of claims by policyholders. Some of the claims were disputed claims pending in court. The Fund has not disposed of all known claims at the present time.

The receiver reported the following statement of cash assets, income and disbursements:

Balance (Jan. 1, 1976)	\$ 4,975.31
Income	8,942.98
Disbursements	12,485.91
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Balance (Dec. 31, 1976)	\$ 1,432.38

Puritan Marine Insurance Underwriters Corp.--A complaint requesting the Supreme Judicial Court to appoint the Commissioner of Insurance as a receiver over the assets of the brokerage firm was filed in the Supreme Judicial Court on June 3, 1976. On that date Deputy Commissioner of Insurance Keith R. Rodney was appointed temporary receiver. After notice to all the creditors of Puritan Marine, on September 8, 1976 the Court ordered a final decree enjoining Puritan Marine Insurance Underwriters Corporation from doing business, and appointing Deputy Commissioner Keith R. Rodney as permanent receiver.

Michael S. Field, of 27 State Street, Boston, was appointed counsel to the receiver. Shortly thereafter, an interest-drawing checking account was opened in the name of the receiver at the United States Trust Company of Boston. An initial deposit of approximately \$9,700.00 was transferred to the account, which amount had previously been accumulated as a result of the efforts of Mr. Maurice H. Saval, acting as a concerned member of the insurance industry and at the request of the Division of Insurance. This sum represented monies owed the insurance agency.

The property, records and affects of the agency remain, in part, at the offices of Maurice H. Saval, Saval Insurance Company, 22 Batterymarch, Boston. Some records were transferred to the office of counsel for the receiver, who began marshalling the assets and determining liabilities in compliance with the law, rules and regulations concerning the maintenance and operation of the affairs of the receivership.

Rockland Mutual Insurance Company--The property, records and effects of the company are held in the receiver's custody and control at 112 Water Street, Boston, Massachusetts, 02109. Claims, priority and general, in an amount in excess of \$7 million have been submitted to the receiver. Through his counsel, Edward T. Dangel III, the receiver is litigating and collecting various sums alleged to be due the receiver.

Suffolk Insurance Company--Joseph F. Ciccio, as receiver, with the assistance of legal counsel continued disposing of claims of injured persons against policyholders of Suffolk Insurance Company. Various claims were negotiated and settled. On May 5, 1976 the Supreme Judicial Court allowed payment of these claims, totaling \$4,895.50. In addition the court allowed payment of attorney fees in the amount of \$2,188.56.

The receiver reported the following statement of assets, income, and disbursements:

Balance (Jan. 1, 1976)	\$221,874.12
Income	11,651.56
Disbursements	10,843.74
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Balance (Dec. 31, 1976)	\$222,681.94

Summit Insurance Company of New York, Inc.--The ancillary receivership continued as set up in 1975. The marshalling of assets located in the Commonwealth continued. The claims of insured and damaged parties, including those undertaken pursuant to law by the Massachusetts Insurer's Insolvency Fund, were overseen and, where appropriate, processed. Suits were commenced to collect assets, and other law suits in progress were taken over. Cooperation and joint efforts were undertaken between the ancillary receivership and the domiciliary receivership and the domiciliary receivership in New York to the advantage of both receiverships.

#### LIFE VALUATIONS

Each year, the Division of Insurance assigns a value to the reserves of Massachusetts-based life insurance companies. In 1976, the fee for valuations amounted to \$697,548.79. The fee is set by this formula: for each \$1000 of life insurance in force on December 31, a fee of four mills is charged; for each annuity contract or supplementary contract with life contingencies, a fee of four cents is charged.

